

THE HONORABLE MARSHA J. PECHMAN

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT  
AT TACOMA**

N.H., a minor, by and through his parents and  
guardians, DINA HORTON,

Plaintiffs,

vs

CENTRALIA SCHOOL DISTRICT, and  
PENNY FUGATE and JOHN DOE FUGATE,  
and their marital community composed thereof,

Defendants.

No. 3:22-cv-05496-MJP

ORDER APPOINTING SETTLEMENT  
GUARDIAN AD LITEM

The Stipulated Motion to Appoint Settlement Guardian ad Litem on behalf of the above-named minor, N.H. having been filed, and a CV of the proposed Settlement Guardian Ad Litem having been filed, the Court finding that the facts set forth give the Court jurisdiction over this matter and that pursuant to LCR 17(c), a Settlement Guardian Ad Litem or independent attorney is required to investigate and evaluate the proposed settlement; now, therefore,

**THE COURT ORDERS:**

A. Settlement Guardian ad Litem Bronson J. Brown, WSBA#33673, Attorney-at-Law, is a

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person found or known by the Court to be a suitable, disinterested person having the requisite knowledge, training and expertise to perform the duties required by LCR 17(c) and is hereby appointed to represent the interests of the named minor.

IMPORTANT MESSAGE FOR SETTLEMENT GUARDIAN AD LITEM:

B. Duties. The Settlement Guardian ad Litem shall have the following duties:

1. To investigate and evaluate the adequacy of the offered settlement in light of the needs and best interests of the minor.
2. To review written or oral reports from the attorneys, guardians, medical providers, or others necessary to permit a complete report as required by LCR 17(c).
3. To provide the court with a written report which shall include a description, in depth appropriate to the magnitude of injuries and the amount offered, of the following information, as a minimum:

a. Settlement Guardian Ad Litem: State your name, date of appointment, and the date that you started working on this matter. Give a brief statement of your experience and qualifications as pertain to serving as Settlement Guardian ad Litem, or attach a C.V. with this information. Describe your relationship, if any, with involved parents, guardians, insurers or attorneys.

b. Investigation: Describe the investigation you conducted, the persons interviewed, and the documents you reviewed.

c. Description of Incident and Cause of Action: Describe the incident and the affected person's legal claims.

d. Injuries: Describe the injuries, diagnosis, course of treatment, diagnosis, and prognosis, attaching a recent supporting medical report or office record.

e. Damages: Describe the special and general damages that are potentially

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recoverable.

f. Liability Issues: Discuss the potential liability of all persons and entities, including issues of primary negligence, contributory or comparative negligence, causation and probable chances of recovery.

g. Insurance and Assets Available to Satisfy Claim: State the nature and extent of all insurance coverage or assets available to satisfy the claim, whether maintained through the defendant, the family or available through government entitlements.

h. Liens and Subrogation: Identify all liens, subrogation and reimbursement claims. Make a recommendation regarding how those claims are to be resolved including a recommendation regarding retention in any attorney's trust account of the full amount claimed until the final resolution of such claim.

i. Other Claims: Identify all other claims arising out of the same occurrence. State whether another family member has a claim arising out of the same occurrence, and whether a family member is or could be a plaintiff or defendant in any action based upon the minor's claim or the occurrence from which it arose.

j. Apportionment: Indicate the amount, basis, and justification for allocating the gross settlement to be paid by defendants among the various claimants of the same family or unrelated claimants, if any. State whether the minor or incapacitated person was independently represented at the time the proposed apportionment was determined.

k. Proposed Settlement: Discuss and evaluate the reasonableness of the proposed settlement amount, stating the basis for your valuation of the claim.

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Also discuss the form the settlement might take (e.g. blocked account, guardianship, structured settlement, or trust) and the proposed settlement document.

l. Expenses and Fees: Discuss and evaluate the reasonableness of the attorney's fees requested, costs to be reimbursed, and any other deductions from the proceeds of the claim.

m. Disposition of Net Proceeds: Clearly set forth your calculation of the net proceeds of the claim. Begin with the proposed offer and subtract reasonable attorney's fees and costs, liens and subrogation reimbursement, settlement guardian ad litem fees, etc.

Give your reasons and recommendations regarding how the funds should be placed. If you recommend use of a blocked account state how the funds shall be transferred into the blocked account and who is responsible for filing the receipt for the blocked account. If a legal guardianship is required, state the nominee and the terms that you recommend. If you recommend a structured settlement, state why that option is preferred, the specific payout schedule recommended and how it relates to the specific needs of the minor; and a statement which includes the costs of the structured portion, the interest rate received, the name and financial rating of the structured portion, the interest rate received, the name and financial rating of the company providing the annuity. If you or any party recommend the creation of a trust as a recipient of the settlement funds, give your recommendation as to the special needs of the incapacitated person and how they would be served by the trust; specific provisions that ought to be included or omitted from the trust document; your

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nomination of a professional to draft the trust, and the recommended fee thereof.

n. Settlement Guardian ad Litem Fees: Attach a declaration of your time and services, giving your professional rate and the amounts sought. Indicate whom you recommend pay these fees and costs.

o. Presence at Hearing: State whether the minor or the settlement guardian ad litem, or any other person(s) should be present at the hearing to approve the settlement.

p. Petition Submitted for Approval in Any Other Jurisdiction: State whether the Petition for Approval of Settlement has been submitted for approval in any other jurisdiction.

q. Conclusion: Give your recommendation as to the adequacy of the offered settlement, the application of the proceeds, and the steps to be followed if you recommend that the settlement not be approved.

4. Within forty-five days after appointment, unless otherwise ordered, file a report with the court and provide a copy to each party, or their counsel, if they are represented.

5. To accomplish all other duties required under LCR 17(c) and any order of the court entered herein.

C. Defendants will pay the cost of bringing this proceeding and the Settlement Guardian ad Litem's fee (up to 10 hours).

D. Hearing on the settlement guardian ad litem's report will be scheduled at a later date.

E. A court's working copy of the report shall be delivered no later than 7 days preceding the hearing pursuant to local court rules.


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- 1 F. The Settlement Guardian ad Litem shall not employ or retain counsel or experts to assist in  
2 these duties except as authorized in advanced by the court, and shall promptly advise the  
3 court if others have retained such a person without court authorization, including but not  
4 limited to the retention of counsel to initiate litigation or draft a trust.
- 5 G. The Settlement Guardian ad Litem may seek instruction from the court upon application  
6 and notice to all parties. If any records or portion of the report contains confidential  
7 information which may adversely affect the settlement of the claim if publicized before the  
8 trial, seek appropriate direction from the court.
- 9 H. The counsel or party requesting this appointment is directed to provide a copy of this order  
10 to the Settlement Guardian ad Litem.
- 11 I. Tentative settlement amount pending approval for minor is to be placed in a blocked  
12 account.

13 Dated this 19th day of April, 2023.

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15  
16 

17 MARSHA J. PECHMAN  
18 UNITED STATES SENIOR DISTRICT JUDGE  
19

20 Presented by:

21 SIMMONS SWEENEY FREIMUND  
22 SMITH TARDIF PLLC

23 /s/Shane P. Brady  
24 Bret S. Simmons, WSBA#25558  
25 Shane P. Brady, WSBA #34003  
*Attorneys for Defendant Centralia*

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*School District*

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